

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of ARM        )  
37.104.101, 37.104.109, 37.104.218,        )  
and 37.104.221 pertaining to                )  
emergency medical services                )

NOTICE OF AMENDMENT

TO: All Interested Persons

1. On June 1, 2006, the Department of Public Health and Human Services published MAR Notice No. 37-383 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 1368 of the 2006 Montana Administrative Register, issue number 11.
2. The department has amended ARM 37.104.101, 37.104.109, 37.104.218, and 37.104.221 as proposed.
3. The department has thoroughly considered all commentary received. The comments received and the department's response to each follows:

The department received 13 comments to the proposed amendments before the deadline for submitting comments. Three more comments were received after the deadline. While each of them included a request for an oral public hearing, none contained specific reasons or objections. One contained general comments that were similar to those made by other commenters. Ten of the timely comments also contained non-specific requests for a public hearing but did not state any specific question, criticism or concern about the proposed amendments. Since the requests for hearing were substantially fewer than the minimum of 25 necessary to trigger a hearing, even though late comments were counted, the department decided not to conduct an oral public hearing. However, the department was curious about the reasons for the hearing requests. It was able to contact nearly all the persons who submitted hearing requests and discuss their concerns. The concerns are summarized in comments #1 through #4, below. The department determined that an oral public hearing on the proposed amendments would not provide any additional data, views, or arguments on the proposed amendments.

One of the comments was concerned solely with the status of nurses under service licensing rules ARM 37.104.316, 37.104.319, 37.104.101(13), (17), and (19). Since the proposed amendments did not affect those rules the department responded directly to the commenter.

COMMENT #1: What do the proposed amendments mean and how will they be integrated with the December 22, 2005 EMS licensing rule changes?

RESPONSE: The department sent copies of the notice and an explanation of the

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proposed amendments to all 265 licensed EMS services, 111 service medical directors, and other interested parties. The information was also posted on the EMS and Trauma Systems web site. The meaning and effects of the proposed amendments were fully explained in those documents. Additionally, the department contacted most commenters in order to explain the proposed changes and to answer questions.

COMMENT #2: Why are there definitions for both "advanced life support care" and "advanced life support service" and what is the difference between the two?

RESPONSE: The BOME licenses EMT-First Responders, EMT-Basics, EMT-Intermediates and EMT-Paramedics. The department licenses Basic Life Support services (inclusive of EMT-F and EMT-B), Intermediate Life Support, and Advanced Life Support (EMT-P) levels of services.

To each level of EMT license, the BOME added endorsement levels of care. The department's EMS licensing rules were designed to compliment the BOME's rules and to allow these endorsement levels of care to be provided by EMS services. Therefore, the definition of "advanced life support care" is necessary to recognize any license or endorsement level of care above EMT-Basic and to allow the department to license or authorize emergency medical services to provide such ALS care.

The proposed amendment to the definition of "advanced life support service" is necessary to distinctly define such a service as one that can provide EMT-Paramedics 24 hours a day, seven days a week, 365 days a year (24/7/365). Services that can similarly provide EMT-Intermediates 24/7/365 will also be distinctly licensed as intermediate life support services. Other services that provide such care at less than 24/7/365 or services that provide combinations of endorsement levels of care will be licensed at a basic life support level, but with a specific authorization to also provide ALS care.

COMMENT #3: The proposal to license some EMS services as basic life support but with an authorization to provide advanced life support care would not allow those services to bill Medicaid for ALS levels of care.

RESPONSE: The department disagrees. The EMS licensing rules were revised December 22, 2005 for the department to provide authorizations so that licensed basic life support services could provide ALS services using EMTs with endorsement levels of care authorized by the Board of Medical Examiners. Before implementing these authorizations, the department met with a representative of the Centers for Medicare and Medicaid Services (CMS), the Federal agency responsible for administering Medicaid, to discuss the proposed EMS licensing structure. The CMS representative assured the department that EMS basic life support services would be able to bill Medicaid for authorized ALS care. Therefore, the department determines that no EMS service will be adversely affected by these amendments and that the changes should be adopted as proposed.

COMMENT #4: We oppose the proposed definition of advanced life support service as a paramedic equivalent service that can provide advanced level care 24 hours per day, seven days a week, 365 days a year. It is too restrictive. An EMT-Intermediate is capable of nearly all the skills used by authorized EMT-Paramedics. Therefore, services with EMT-Intermediates should also be defined as advanced life support services.

RESPONSE: Although the department recognizes that skills provided by EMT-Intermediates are the same as several skills commonly used by EMT-Paramedics, it does not agree that services employing EMT-intermediates should be licensed as ALS. An EMT-Paramedic's depth and breadth of knowledge is significantly greater than an EMT-Intermediate's and the paramedic's scope of practice is significantly broader. For the same reasons, the BOME distinctly licenses EMT-Intermediates and EMT-Paramedics as separate providers. The department has determined that the EMT-Intermediate and the EMT-Paramedic services are distinctly different and it declines to license ALS services relying on EMT-Intermediates the same as one that employs EMT-Paramedics.

/s/ John Koch  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State September 25, 2006.